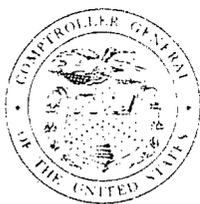


PL II

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

10,777

FILE: B-193535

DATE: July 18, 1979

MATTER OF: Mr. John R. Hughes, Jr.

DIGEST:

[Claim for]
Transferred employee claims reimbursement of for loan origination fee incident to purchase of home at new location. Charges contained in such lump sum may be reimbursed if excludable from finance charges under Truth in Lending Act by Regulation Z, 12 C.F.R. 226.4(e), and itemized to show the portion of fee, allocable to each allowable item. In absence of specific information as to amount of loan origination fee allocable to otherwise reimbursable items, payment may not be made.

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This action is in response to a request for an advance decision submitted by Mr. John Houston, Authorized Certifying Officer, Field Finance Office, National Oceanic and Atmospheric Administration, on the question as to the propriety of making payment on a voucher in the amount of \$250, in favor of Mr. John R. Hughes, Jr., an employee of that agency, for certain real estate expenses incurred incident to his official change of station in 1978.

The submission shows that on transfer, Mr. Hughes purchased a home at his new station. Incident to that purchase, Mr. Hughes filed a claim for expenses totalling \$445.80. The listed items in the voucher were: lot survey--\$55; Recording fees--\$16; Lenders coverage, Title Insurance--\$124.80; and Loan Origination Fee--\$250. In response, the administrative office allowed payment on June 23, 1978, for \$195.80, but disallowed payment for the Loan Origination Fee, noting to Mr. Hughes that in order for any portion of that fee to be reimbursable, an itemization of expenses making up that fee would be required.

Mr. Hughes attempted to secure a breakdown of the items and costs from the lending institution. They advised him that the fee in question was not an interest charge, but rather it was a fee covering their loan processing, including a credit report and appraisal, but they would be unable to itemize the costs for each. Further efforts to secure the required itemization were unsuccessful.

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Paragraph 2-6.2 of the Federal Travel Regulations (FPMR 101-7, May 1973) provides in part:

"d. Miscellaneous expenses. The following expenses are reimbursable with respect to the sale and purchase of residences * * * FHA or VA fee for loan application, costs of preparing credit reports, mortgage and transfer taxes, State revenue stamps, and similar fees and charges. * * * Interest on loans, points, and mortgage discounts are not reimbursable. * * * Notwithstanding the above, no fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Public Law 90-321, and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System. * * *"

The pertinent parts of Regulation Z, 12 C.F.R. 226.4 (1977), state as follows:

"226.4 Determination of finance charge.

"(a) General rule. Except as otherwise provided in this section, the amount of the finance charge in connection with any transaction shall be determined as the sum of all charges, payable directly or indirectly by the customer, and imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, whether paid or payable by the customer, the seller, or any other person on behalf of the customer to the creditor or to a third party, including any of the following types of charges;

* * * * *

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"(2) Service, transaction, activity, or carrying charge.

"(3) Loan fee, points, finder's fee, or similar charge.

* * * * *

"(e) Excludable charges, real property transactions. The following charges in connection with any real property transaction, provided they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this part, shall not be included in the finance charge with respect to that transaction:

"(1) Fees or premiums for title examination, abstract of title, title insurance, or similar purposes and for required related property surveys.

"(2) Fees for preparation of deeds, settlement statements, or other documents.

"(3) Amounts required to be placed or paid into an escrow or trustee account for future payments of taxes, insurance, and water, sewer, and land rents.

"(4) Fees for notarizing deeds and other documents.

"(5) Appraisal fees.

"(6) Credit reports."

Regulation Z expressly categorizes loan fees as finance charges incident to or as a condition of the extension of credit by a lender. Our position that

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loan origination fees are finance charges under the regulation and, therefore, not reimbursable, is long-standing and based on the rationale that a fee of this type without reference to the extent of services actually performed by the lender is more in the nature of a charge for the hire of money than it is a charge for costs customary services performed in the course of settlement and processing a loan. See B-183972, April 16, 1976. Thus, where it is claimed that a loan origination fee is levied to reimburse the lender for costs of specific services performed, we require an itemization of those charges in order to insure that reimbursement is authorized only for those charges which are not a part of finance charges. B-184703, April 30, 1976.

In the present case, while it has been indicated that certain services, otherwise reimbursable, were included in the \$250 fee, the costs attributable to those reimbursable items were not stated. Thus, in the absence of such specific information, we are unable to separate reimbursable items from those which are non-reimbursable, or determine whether the charges for otherwise reimbursable items are reasonable.

Accordingly, based on the record before us, the amount claimed by Mr. Hughes may not be paid.


Deputy Comptroller General
of the United States